

Message Text

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TO AMEMBASSY BLANTYRE

C O N F I D E N T I A L STATE 205370

SUBJECT: US POSITION ON NAMIBIA

REF; BLANTYRE 1211

1. POST MAY WISH TO DRAW ON FOLLOWING INFORMATION:

2. ICJ AND UN ACTIONS: IN 1950, THE INTERNATIONAL COURT OF JUSTICE RULED IN AN ADVISORY OPINION THAT SOUTH AFRICA'S MANDATE OBLIGATIONS REMAINED IN EFFECT, ALTHOUGH SOUTH AFRICA WAS NOT LEGALLY OBLIGATED TO PLACE NAMIBIA UNDER THE UN TRUSTEESHIP SYSTEM. IN 1966, THE COURT REFUSED TO RULE ON PROCEEDINGS BROUGHT AGAINST SOUTH AFRICA BY LIBERIA AND ETHIOPIA TO REQUIRE SOUTH AFRICA TO CARRY OUT ITS MANDATE OBLIGATIONS ON THE GROUND THAT THE PLAINTIFF COUNTRIES FAILED TO ESTABLISH LEGAL INTEREST ENTITLING THEM TO BRING THE CASE TO THE COURT.

UNGA IN OCTOBER OF THAT YEAR VOTED 114 TO 2 TO TERMINATE THE MANDATE AND INSTRUCT THE UN TO ASSUME DIRECT RESPONSIBILITY FOR ADMINISTRATION. THIS ACTION HAS SINCE

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BEEN SUPPORTED BY AN IJC ADVISORY OPINION. ON MAY 19,

1967, UNGA ESTABLISHED THE UN COUNCIL FOR SOUTH WEST AFRICA AS THE UN ORGANIZATION WITH DIRECT RESPONSIBILITY FOR THE TERRITORY. ON JUNE 12, 1968, THE UN OFFICIALLY

CHANGED THE NAME OF THE TERRITORY TO NAMIBIA.

EFFORTS BY THE UN COUNCIL FOR NAMIBIA TO ESTABLISH A PRESENCE IN NAMIBIA HAVE FAILED. IN 1972, UN OFFICIALS, INCLUDING THE SECRETARY GENERAL, VISITED NAMIBIA IN CONNECTION WITH AN ATTEMPT TO NEGOTIATE A SETTLEMENT WITH SOUTH AFRICA ON THE FUTURE OF THE TERRITORY. THIS DIALOGUE BETWEEN THE SECRETARY GENERAL AND INTERESTED PARTIES WAS TERMINATED BY THE SECURITY COUNCIL IN DECEMBER 1973 ON THE GROUND THAT THE SOUTH AFRICAN GOVERNMENT DID NOT PROVIDE SUFFICIENT CLARIFICATION OF THE CONDITIONS UNDER WHICH NAMIBIANS WOULD BE PERMITTED TO EXERCISE THEIR RIGHT TO SELF-DETERMINATION AND INDEPENDENCE.

3. US POLICY: IN LINE WITH ITS SUPPORT OF THE 1966 UN ACTION TERMINATING SOUTH AFRICA'S MANDATE, THE US CONSIDERS THAT SOUTH AFRICA IS ILLEGALLY OCCUPYING NAMIBIA AND FULLY SUPPORTS THE AUTHORITY OF THE UN WITH REGARD TO THE TERRITORY. IN ACCORDANCE WITH UN SECURITY COUNCIL RESOLUTIONS 282, 283, AND 309, THE US:

--MAINTAINS NO OFFICIAL REPRESENTATION IN NAMIBIA;

--OFFICIALLY DISCOURAGES AMERICAN INVESTMENT IN NAMIBIA;

--ANNOUNCED IN MAY 1970 THAT IT WOULD NOT PROTECT AMERICAN INVESTMENT - IF MADE ON THE BASIS OF RIGHTS ACQUIRED THROUGH THE SOUTH AFRICAN GOVERNMENT FOLLOWING THE 1966 TERMINATION OF THE MANDATE - AGAINST CLAIMS OF A FUTURE LAWFUL GOVERNMENT IN THE TERRITORY;

--WITHHOLDS EXIM BANK GUARANTEES AND OTHER FACILITIES FROM TRADE WITH NAMIBIA;

--URGES US FIRMS DOING BUSINESS IN THE TERRITORY TO CONFORM, IN THEIR EMPLOYMENT PRACTICES, TO THE UNIVERSAL
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DECLARATION OF HUMAN RIGHTS.

4. THE US CONTINUES TO BELIEVE THAT CHANGE IN NAMIBIA SHOULD OCCUR BY PEACEFUL MEANS. WE REGRET THAT THE 1972-73 TALKS BETWEEN THE UN SECRETARY GENERAL AND THE SOUTH AFRICAN GOVERNMENT HAVE BEEN DISCONTINUED. WE CONSIDER THAT THIS DIALOGUE HAD BEGUN A PROCESS WHICH HELD PROMISE OF ACHIEVING ACCOMMODATIONS LEADING TO SELF-

DETERMINATION AND INDEPENDENCE FOR NAMIBIANS. THE US
HOPES THAT THIS DIALOGUE WILL BE RESUMED IN SOME FORM AND

SUPPORTS OTHER PEACEFUL AND PRACTICAL MEASURES IN THE UN
TO ENABLE THE PEOPLE OF NAMIBIA TO EXERCISE THEIR RIGHT
OF SELF-DETERMINATION.

5. WHILE FOREGOING IS ACCURATE GENERAL STATEMENT OF US
POLICY, NAMIBIA ISSUE CONTAINS LEGAL SUBTLETIES AND
COMPLEXITIES. IF ABOVE INFORMATION DOES NOT SATISFY
NGWIRI, WE WILL PROVIDE DETAILED LEGAL ANALYSIS AT YOUR
REQUEST. INGERSOLL

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